

Message Text

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ORIGIN ARA-10

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FM SECSTATE WASHDC

TO AMEMBASSY SAN SALVADOR

LIMITED OFFICIAL USE STATE 068676

E.O. 11652: N/A

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TAGS: ETRD, EINV, ELTN, ES

SUBJECT: COUNTRY ELIGIBILITY FOR GENERALIZED REFERENCES
UNDER TRADE ACT OF 1974

REF: STATE 66492

1. EL SALVADOR IS AMONG THE 18 COUNTRIES FOR WHICH A
DETERMINATION HAS BEEN MADE THAT, ALTHOUGH AN ACTION HAS
BEEN TAKEN BY THE GOES WHICH WITHIN THE MEANING OF THE
TRADE ACT OF 1974 COULD BE CONSIDERED EXPROPRIATORY -
THE CANCELLATION OF IRCA'S CONCESSION,- REASONABLE STEPS
ARE BEING TAKEN BY THE GOES TO DISCHARGE ITS OBLIGATIONS
UNDER INTERNATIONAL LAW AS REQUIRED BY SECTION 502 (B)
(4) (D) (II) OF THE ACT. THE REASONING BEHIND THIS

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DETERMINATION IS BASED ON THE ABSENCE OF ANY EVIDENCE THAT

OBLIGATIONS UNDER INTERNATIONAL LAW HAVE NOT BEEN MET BY THE GOES.

2. THE FOLLOWING GUIDANCE WAS PREPARED TO ASSIST YOU IN RESPONDING TO ANY INQUIRIES CONCERNING EL SALVADOR'S ELIGIBILITY FOR GSP:

ON OCTOBER 3, 1974 THE GOES ISSUED A DECREE CANCELLING THE CONCESSION OF THE INTERNATIONAL RAILWAYS OF CENTRAL AMERICA (IRCA), WHICH WAS OWNED AND OPERATED BY AMERICAN INVESTORS. THIS DECREE, LATER APPROVED BY THE NATIONAL ASSEMBLY, AUTHORIZED THE TRANSFER OF THE RAILROAD'S PHYSICAL ASSETS TO THE GOVERNMENT'S NATIONAL PORT AUTHORITY, WHILE ALLOWING IRCA TO CONTINUE AS A CORPORATION WITH ITS FINANCIAL ASSETS AND LIABILITIES. THE GOES JUSTIFIED ITS TAKEOVER OF IRCA ON THE ALLEGED DETERIORATION OF THE RAILROAD TO A POINT WHERE IT WAS UNABLE TO MEET ITS EXPENSES OR PROVIDE NECESSARY SERVICES.

GOES OFFICIALS HAVE STATED THAT IRCA IS STILL FREE TO CHALLENGE LEGALITY OF THE GOVERNMENT ACTION AND/OR SEEK INDEMNIFICATION BY GOING THROUGH NORMAL JUDICIAL CHANNELS. TO DATE, IRCA HAS NOT ELECTED TO FOLLOW THIS COURSE. SINCE THE GOES REPORTS THAT LEGAL REMEDIES IN EL SALVADOR ARE AVAILABLE TO IRCA, AND SINCE THESE HAVE NOT YET BEEN EXHAUSTED, THE PRESIDENT HAS DETERMINED THAT EL SALVADOR IS TAKING REASONABLE STEPS TO DISCHARGE ITS OBLIGATIONS UNDER INTERNATIONAL LAW AS REQUIRED BY SECTION 502 (B) (4) (D) (II) OF THE TRADE ACT OF 1974. KISSINGER

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